

1  
2  
3  
4  
5  
6 IN THE UNITED STATES DISTRICT COURT  
7  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
9

10 INTEL CORPORATION,

No. C 19-02241 WHA

11 Plaintiff,

12 v.

**NOTICE RE RULE 26(f)  
CONFERENCE**

13 PACT XPP SCHWEIZ AG,

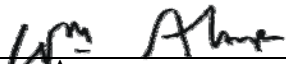
14 Defendant.  
15 \_\_\_\_\_/

16 In this civil action, plaintiff Intel Corporation seeks declaratory relief of non-  
17 infringement of twelve patents owned by defendant PACT XPP Schweiz AG (and breach of  
18 contract). This poses a procedural problem not posed in the normal infringement case in which  
19 the patent owner initiates the litigation. When the patent owner initiates, it should have good  
20 faith basis under Rule 11 for each claim of infringement, including each specific patent, before  
21 dragging accused infringer into court.

22 In this case, however, it is Intel who has dragged the patent owner into court and seeks  
23 declaratory relief that it does *not* infringe. The Court is concerned that this procedural posture  
24 forces the patent owner to counterclaim and/or supply infringement contentions before it has  
25 had a fair opportunity to examine the technology in question. Therefore, counsel for both sides  
26 should take into account this consideration in its Rule 26(f) conference and should anticipate  
27 that the Court will likely permit sufficient discovery into all of Intel's products for which  
28 declaratory relief is sought prior to requiring the patent owner to counterclaim and/or the supply

1 infringement contentions. In other words, having initiated the litigation, Intel should be  
2 prepared to open its files, records, and products accused to allow the patent owner a fair  
3 opportunity to respond.

4  
5 Dated: May 3, 2019.

  
\_\_\_\_\_  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE